

The resolution referred to in and which accompanied your letter is House Concurrent Resolution No. 2, providing for the appointment of a joint committee of investigation. I note particularly that you say that the question of the constitutionality of the resolution has been raised.

I am not informed by yourself, and have not heard from any other source, of the grounds of the supposed constitutional objections to the legislation proposed by the resolution, but assume that those who regard the measure as unconstitutional must do so on the ground that the character of legislation intended to be brought about by the resolution must be had by legislative enactment.

The Supreme Court of this State, in the case of *The State vs. Delesdenier*, 7 Texas, 75, has held that a joint resolution which imposes a particular duty upon any officer of the State is a public statute.

In view of this decision, I think there can be no question but that the Legislature could, by concurrent resolution, provide for the appointment of a committee of its members with the powers which are conferred upon such committee by the resolution under consideration. Such resolution is not without precedent. The Fifteenth Legislature provided for the appointment of a committee to set during the vacation of the Legislature to investigate land forgeries. This resolution was approved by Governor Roberts on the 26th day of April, 1879. The reputation of Governor Roberts as a constitutional lawyer is so well established that his action in approving the resolution referred to lends great weight to the precedent established.

It has occurred to me that possibly some person may have raised the question that the resolution under consideration would be inhibited by the provisions of Section 18, of Article III, of the Constitution, which provides that no member of the Legislature shall be eligible to any civil office of profit which shall have been created or the emoluments of which may have been increased during his term.

I do not think that the resolution provides for the creation of an office, but that it simply provides for the members of the Senate and of the Legislature who may be members of the committee to do certain extra work for which they will receive the same compensation which they would receive as members of the Legislature. Hence, I do not think there is any inhibition against the resolution in the section of the Constitution last referred to.

I therefore have the honor to advise you that, in my judgment, the legislation proposed by the resolution of which you have sent me a copy can be accomplished by a concurrent resolution, and is permissible under our Constitution.

Very truly,

C. K. BELL,
Attorney General.

Action recurring on the motion of Senator Davidson of Galveston to lay the resolution and House amendments on the table subject to call, he withdrew the same.

The House amendments were concurred in, as follows:

(1) "Amend Section 2 by adding after the word 'granted' the following: 'and to impose penalties upon persons disobeying its orders and commands authorized by this resolution.'"

(2) "Strike out the words 'shall be paid \$5.00 per day for actual services and such traveling expenses as are actually incurred' and insert in lieu thereof the following: 'shall receive for actual service the same compensation as received by members of the Legislature, and railroad fare actually paid.'"

(3) "Amend the resolution by adding that 'no one shall be appointed on said committee who has an institution in his representative district supported by the State.'"

Senator Savage moved that the vote by which the House amendments were concurred in be reconsidered, and lay that motion on the table.

The motion to table prevailed.

EXECUTIVE SESSION—TIME SET FOR.

On motion of Senator Davidson of Galveston, the hour of 8:30 o'clock a. m., (Friday, September 20) was the time set for the Senate to go into executive session for the purpose of considering nominations sent in by the Governor during the morning session.

RECESS.

On motion of Senator Swann, the Senate here recessed until 8:30 o'clock a. m. tomorrow (Friday, September 20).

AFTER RECESS.

COMMITTEE REPORT.

After recess the following committee report was made to the Senate:

Committee Room,
Austin, Texas, September 20, 1901.
Hon. J. N. Browning, President of the Senate.

SIR: Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 4, "An Act to make a deficiency appropriation of \$5000 to pay members mileage per diem and per diem of officers and employes of the First Called Session of the Twenty-seventh Legislature,"

And find the same correctly enrolled, and have this day, at 8:20 o'clock a. m., presented the same to the Governor for his approval.

WHEELER, Acting Chairman.

CALL OF SENATE TO SECURE QUORUM.

Senator Davidson of Galveston moved a call of the Senate for the purpose of securing a quorum, which call being duly seconded, the roll was called, the following Senators answering to their names:

Beaty.	Miller.
Davidson of	Neal.
DeWitt.	Paulus.
Davidson of	Savage.
Galveston.	Sebastian.
Grinnan.	Staples.
Harris of Hunt.	Swann.
Johnson.	Turner.
Lipscomb.	Turney.
Lloyd.	Wayland.
McGee.	Wheeler.

Absent.

Dibrell.	Odell.
Goss.	Patterson.
Hanger.	Potter.
Harris of Bexar.	Wilson.
James.	Yett.

Absent—Excused.

Stafford.

Senator Harris of Bexar was announced, and

A quorum was announced present.
(Senator Savage in the chair.)

EXECUTIVE SESSION.

The Chair (Senator Savage) announced the hour of 8:30 o'clock a. m., the time set for the executive session to act upon the appointments sent in by the Governor before the noon recess on yesterday (Thursday, September 19), and accordingly the Chamber was cleared.

AFTER EXECUTIVE SESSION.

In executive session the following confirmation was made:

Member of Board of Commissioners of the City of Galveston—Valery E. Austin, of Galveston county, vice William T. Austin, resigned.

SENATE CONCURRENT RESOLUTION NO. 3—SIGNED.

The President gave notice of signing, and did sign, in the presence of the Senate, after its caption had been read,

Senate Concurrent Resolution No. 3, to provide for the appointment of a joint committee to investigate the various departments of the State government during vacation, and to report to the Governor and the next Legislature such data as may be gathered by them.

ADJOURNMENT.

Senator Beaty moved that the Senate stand adjourned until Tuesday, September 24, at 3 o'clock p. m.

The motion prevailed, and the Senate, at 11:10 o'clock a. m., accordingly adjourned.

APPENDIX.

The following Senator, absent on the opening day, was in attendance today, and marked present:

M. P. McGee, of Harrison county, representing District No. 8, composed of the following counties: Harrison, Rusk, Panola, Shelby.

NINTH DAY.

Senate Chamber,
Austin, Tex., Tuesday, Sept. 24, 1901.

The Senate met pursuant to adjournment.

In the absence of the President, and the Secretary of the Senate, the Senate was called to order by Mr. Clyde D. Smith, Assistant Secretary of the Senate.

The roll was called, no quorum being present, the following Senators answering to their names:

Beaty.	Stafford.
Davidson of	Staples.
DeWitt.	Wayland.
Paulus.	Wheeler.
Savage.	Wilson.

Absent.

Davidson of	James.
Galveston.	Johnson.
Dibrell.	Lipscomb.
Goss.	Lloyd.
Grinnan.	McGee.
Hanger.	Miller.
Harris of Bexar.	Neal.
Harris of Hunt.	Odell.